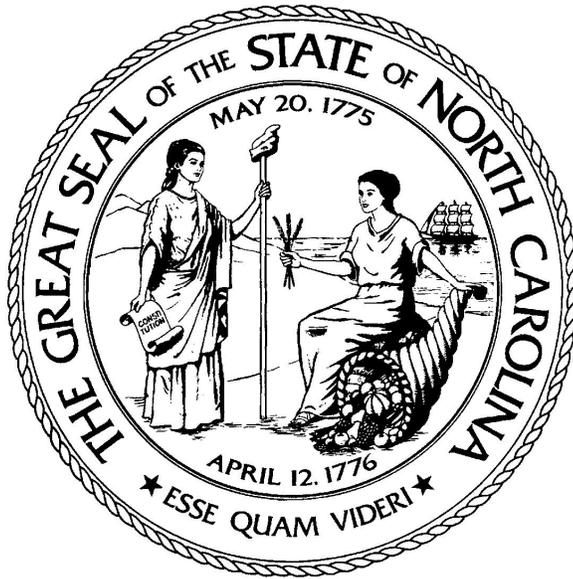


PUBLIC HEALTH STUDY COMMISSION



REPORT TO THE GOVERNOR AND THE 2010 REGULAR SESSION OF THE 2009 GENERAL ASSEMBLY

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STATE OF NORTH CAROLINA



PUBLIC HEALTH STUDY COMMISSION

May 1, 2010

To: Governor Beverly Perdue
Lieutenant Governor Walter Dalton, President of the North Carolina Senate
Senator Marc Basnight, President Pro Tempore of the North Carolina Senate
Representative Joe Hackney, Speaker of the North Carolina House of Representatives
Members of the 2010 Regular Session of the 2009 General Assembly

Attached is a report from the Public Health Study Commission submitted pursuant to North Carolina General Statute §120-202. The report contains recommendations and proposed legislation based on study conducted after the adjournment of the 2009 Regular Session of the General Assembly.

Respectfully submitted,

Senator William Purcell, MD

Representative Bob England, MD

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PUBLIC HEALTH STUDY COMMISSION

Article 22.

The Public Health Study Commission.

§ 120-195. Commission created; purpose.

There is established the Public Health Study Commission. The Commission shall examine the public health system to determine its effectiveness and efficiency in assuring the delivery of public health services to the citizens of North Carolina.

§ 120-196. Commission duties.

The Commission shall study the availability and accessibility of public health services to all citizens throughout the State. In conducting the study the Commission shall:

- (1) Determine whether the public health services currently available in each local health department conform to the mission and essential services established under G.S. 130A-1.1;
- (2) Study the workforce needs of each local department, including salary levels, professional credentials, and continuing education requirements, and determine the impact that shortages of public health professional personnel have on the delivery of public health services in local health departments;
- (3) Review the status and needs of local health departments relative to facilities, and the need for the development of minimum standards governing the provision and maintenance of these facilities;
- (4) Propose a long-range plan for funding the public health system, which plan shall include a review and evaluation of the current structure and financing of public health in North Carolina and any other recommendations the Commission deems appropriate based on its study activities;
- (5) Conduct any other studies or evaluations the Commission considers necessary to effectuate its purpose; and
- (6) Study the capacity of small counties to meet the core public health functions mandated by current State and federal law. The Commission shall consider whether the current local health departments should be organized into a network of larger multidistrict community administrative units. In making its recommendations on this study, the Commission shall consider whether the State should establish minimum populations for local health departments, and if so, shall recommend the number of and configuration for these multicounty administrative units and shall recommend a series of incentives to ease county transition into these new arrangements.

§ 120-197. Commission membership; vacancies; terms.

(a) The Commission shall consist of 17 members, one of whom shall be the State Health Director. The Speaker of the House of Representatives shall appoint seven members, two of whom shall be selected from among the following: the UNC School of Public Health,

the North Carolina Primary Care Association, the North Carolina Home Care Association, the North Carolina Pediatric Society, and the North Carolina Citizens for Public Health. Five of the Speaker's appointees shall be persons who are members of the House of Representatives at the time of their appointment, one of the five being the Representative who chairs the House standing committee related to health matters. The President Pro Tempore of the Senate shall appoint seven members, two of whom shall be selected from among the following: the North Carolina Health Directors' Association, the North Carolina Public Health Association, the Association of Public Health Nurses, the North Carolina Environmental Health Supervisors' Association, and the North Carolina Association of Public Health Educators. Five of the President Pro Tempore's appointees shall be persons who are members of the Senate at the time of their appointment, one of the five being the Senator who chairs the Senate standing committee related to health matters. The Governor shall appoint one member from either the North Carolina Medical Society or the North Carolina Hospital Association. The Lieutenant Governor shall appoint one member from either the North Carolina Association of County Commissioners or the Association of North Carolina Boards of Health.

(b) Vacancies shall be filled by the official who made the initial appointment using the same criteria as provided by this section. All initial appointments shall be made within one calendar month from the effective date of this Article.

(c) Legislative members appointed by the Speaker and the President Pro Tempore shall serve two-year terms. The public members initially appointed by the Speaker and the President Pro Tempore shall each serve a three-year term. The members initially appointed by the Governor and the Lieutenant Governor shall each serve a one-year term. Thereafter, the terms of all Commission members shall be for two years.

§ 120-198. Commission meetings.

The Commission shall have its first meeting not later than 60 days after the sine die adjournment of the 1993 General Assembly at the call of the President Pro Tempore of the Senate and the Speaker of the House of Representatives. The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each appoint one legislative member of the Commission to serve as cochair. The Commission shall meet upon the call of the cochairs.

§ 120-199. Commission reimbursement.

The Commission members shall receive no salary as a result of serving on the Commission but shall receive necessary subsistence and travel expenses in accordance with G.S. 120-3.1, 138-5, and 138-6, as applicable.

§ 120-200. Commission subcommittees; non-Commission membership.

The Commission cochairs may establish subcommittees for the purpose of making special studies pursuant to its duties, and may appoint non-Commission members to serve on each subcommittee as resource persons. Resource persons shall be voting members of the subcommittee and shall receive subsistence and travel expenses in accordance with G.S. 138-5 and G.S. 138-6.

§ 120-201. Commission authority.

The Commission may obtain information and data from all State officers, agents, agencies, and departments, while in discharge of its duties, under G.S. 120-19, as if it were a committee of the General Assembly. The Commission also may call witnesses, compel

testimony relevant to any matter properly before the Commission, and subpoena records and documents, provided that any patient record shall have patient identifying information removed. The provisions of G.S. 120-19.1 through G.S. 120-19.4 shall apply to the proceedings of the Commission as if it were a joint committee of the General Assembly. In addition to the other signatures required for the issuance of a subpoena under this section, the subpoena shall also be signed by the cochairs of the Commission. Any cost of providing information to the Commission not covered by G.S. 120-19.3 may be reimbursed by the Commission from funds appropriated to it for its continuing study.

§ 120-202. Commission reports.

The Commission shall report to the General Assembly, the Governor, and the Lieutenant Governor the results of its study and recommendations. The Commission shall submit its written report not later than 30 days after the convening of each biennial session of the General Assembly.

§ 120-203. Commission staff; meeting place.

The Commission may contract for clerical and professional staff or for any other services it may require in the course of its ongoing study.

The Commission may, with the approval of the Legislative Services Commission, meet in the State Legislative Building or the Legislative Office Building.

COMMISSION PROCEEDINGS

The Public Health Study Commission met 4 times during the 2009-2010 interim. The Commission heard from the individuals listed below during the specified meeting dates. Detailed minutes and information from each Commission meeting are available in the Legislative Library.

November 5, 2009

- Dr. Megan Davies, State Epidemiologist, Chief of Epidemiology Section, Division of Public Health, presented a report on the status of the H1N1 response in North Carolina.
- Dr. Jeff Engel, State Health Director, Division of Public Health, provided an update on the Public Health Improvement Plan.
- Dr. Ed Baker, Director, North Carolina Institute for Public Health, Gillings School of Global Public Health, University of North Carolina at Chapel Hill, discussed the status of the accreditation of local health departments as required by G.S. 130A-34.1.
- Sally Malek, Head of Tobacco Prevention and Control Branch, Division of Public Health, provided an update on the implementation of House Bill 2: Prohibit Smoking in Certain Public Places.
- John Rouse, President of the North Carolina Association of Local Health Directors (NCALHD) and Harnett County Health Director, presented comments from North Carolina Association of Local Health Directors.

February 4, 2010

- Dr. Jeff Engel, State Health Director, Division of Public Health; Dr. John Rusher, Raleigh Pediatrics, NC Pediatric Society; and Dr. Kevin Ryan, Women's and Children's Health, Division of Public Health; updated the Commission on the State Vaccine Program.
- Dr. Megan Davies, State Epidemiologist, Chief of Epidemiology Section, Division of Public Health, provided a progress report on Healthcare Associated Infections.

- Sally Malek, Head of Tobacco Prevention and Control Branch, Division of Public Health, provided an update on the implementation of House Bill 2: Prohibit Smoking in Certain Public Places.
- Martha Keehner Engelke, Associate Dean for Research and Scholarship, East Carolina University, College of Nursing; Richard R. Eakin, Distinguished Professor of Nursing, East Carolina University, College of Nursing; Martha Guttu, School Nurse Consultant, Northeast Region; Sue Lynn Ledford, Community Health Director, Wake County; Immediate Past President – School Nurse Association of North Carolina; and Liz Newlin, School Nurse, Wake County; Legislative Chair, School Nurse Association of North Carolina; presented a report by the School Nurse Association of North Carolina.

March 11, 2010

- Dr. Steve Cline, Deputy State Health Director, Division of Public Health, presented the Mobilizing Action Toward Community Health (MATCH) county health rankings.
- Dr. Rebecca King, Chief of NC Oral Health Section, Division of Public Health; and Kevin Buckhholtz, Regional Dentist Supervisor; reported on dental care options for special populations.
- Connie Parker, Executive Director, NC School Community Health Alliance and Helen Hill, Director, School Health Program for Greene County Health Care, Inc., provided strategies for effective access to healthcare in school health centers.
- Dr. Ed Baker, Research Professor and Director, North Carolina Institute for Public Health, UNC Gillings School of Global Public Health discussed the accreditation of public health agencies in North Carolina.

April 15, 2010

- Dr. Kevin Ryan, Women's and Children's Health, Division of Public Health, discussed the importance of legislation for a Universal Immunization Program.
- Rose Vaughn Williams, Legislative Counsel, Department of Insurance, commented on the necessity for Fire Safe Cigarettes legislation
- Ben Popkin, Commission Staff presented an overview of the Public Health Study Commission Report.
- Public Health Study Commission members discussed and adopted the report.

RECOMMENDATIONS

Chairs:

Senator William Purcell, MD
Representative Bob England, MD

RECOMMENDATION 1: UNIVERSAL CHILDHOOD IMMUNIZATION PROGRAM

The Public Health Study Commission recommends that the General Assembly enact legislation to establish the North Carolina Childhood Vaccine Association, a non-profit corporation formed for the purpose of collecting and remitting funds from health insurers for the cost of vaccines provided to insured children in North Carolina under the Universal Childhood Immunization Program.

RECOMMENDATION 2: LOCAL HEALTH DEPARTMENT ACCREDITATION

The Public Health Study Commission recommends that the General Assembly appropriate \$700,000 for the 2010-2011 fiscal year to restore full recurring funding to the North Carolina Local Health Department Accreditation Program, the goal of which is to improve and protect the public's health by assuring the capacity of North Carolina local health departments to perform core functions and essential services.

RECOMMENDATION 3: FUNDS FOR SCHOOL-BASED AND SCHOOL-LINKED ADOLESCENT HEALTH CARE CENTERS.

The Public Health Study Commission recommends that the General Assembly appropriate an additional \$124,170 for the 2010-2011 fiscal year to restore full recurring funding to sustain operations of current school-based and school-linked adolescent health care centers and to expand the operations of existing centers that have been experiencing growth in caseloads, and appropriate \$175,185 for the 2010-2011 fiscal year to restore two recently eliminated technical support and data collection positions in the School Health Center Program Office.

RECOMMENDATION 4: FIRE-SAFE CIGARETTES LEGISLATION.

The Public Health Study Commission recommends that the General Assembly enact legislation to amend the Fire Safety Standard and Firefighter Safety Act to clarify terminology relating to the payment of fees to the Commissioner of Insurance based on each 'brand style' of cigarette manufactured.

DRAFT LEGISLATION

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S/H

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BILL DRAFT 2009-LNfz-186* [v.10] (03/23)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
4/22/2010 3:49:01 PM

Short Title: Universal Childhood Vaccine Program. (Public)

Sponsors: Senator Purcell./Representative England.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT PERTAINING TO THE UNIVERSAL CHILDHOOD IMMUNIZATION
3 PROGRAM; TO ESTABLISH THE NORTH CAROLINA CHILDHOOD
4 VACCINE ASSOCIATION; TO PROVIDE FOR ASSESSMENT OF HEALTH
5 INSURERS FOR THE PURCHASE STORAGE, DISTRIBUTION, AND
6 QUALITY ASSURANCE OF CERTAIN VACCINES; AND TO ESTABLISH
7 THE CHILDHOOD IMMUNIZATION ACCOUNT, AS RECOMMENDED BY
8 THE PUBLIC HEALTH STUDY COMMISSION.

9 The General Assembly of North Carolina enacts:

10 SECTION 1. Article 6 of Chapter 130A of the General Statutes is amended
11 by adding the following new Part to read:

12 Part 2A. Universal Childhood Immunization Program.

13 **"§ 130A-159. Title and purpose.**

14 This Part may be referred to the Universal Childhood Immunization Act. The
15 purpose of this Part is to provide for the purchase, storage, distribution and quality
16 assurance of certain vaccines in this State.

17 **"§ 130A-159.1. Definitions.**

18 As used in this Part, the term:

- 19 (1) 'Association.' – The North Carolina Childhood Vaccine Association.
20 (2) 'CDC.' – The Centers for Disease Control and Prevention.
21 (3) 'Covered life.' – A person who is covered under a medical benefits
22 plan that is insured or administered by a health insurer.
23 (4) 'Covered life months.' – The number of months a covered life has
24 coverage as a covered life during a calendar year.
25 (5) 'Estimated vaccine cost.' – The estimated cost to the State over the
26 course of a State fiscal year for the purchase and distribution of
27 vaccines purchased at the federal discount rate by the Department.
28 (6) Health benefit plan.' – As defined in G.S. 58-3-167.

- 1 (7) 'Health insurer.' – An entity that provides medical care benefits,
2 including excess or stop-loss insurance that covers medical care or
3 administers medical care on an individual in this State and operating
4 under the authority of Chapter 58 of the General Statutes, for the
5 benefits prescribed in G.S. 58-68-25(a)(5) and excluding the benefits
6 excepted in G.S. 58-68-25(b).
- 7 (8) 'Insurer.' - Includes the following:
8 a. An insurance company;
9 b. A hospital or medical service corporation;
10 c. A health maintenance organization.
11 d. A multiple employer welfare arrangement;
12 e. A third-party administrator or claims processor;
13 f. The State Health Plan for Teachers and State Employees; and
14 g. The North Carolina Children's Health Insurance Program.
15 h. Any other nongovernmental entity providing a health benefit plan
16 subject to State insurance regulation.
- 17 (9) 'Medical care.' – All of the following:
18 a. The diagnosis, cure, mitigation, treatment, or prevention of disease,
19 or amounts paid for the purpose of affecting any structure or function
20 of the human body;
21 b. transportation primarily for and essential to medical care as defined
22 in sub-paragraph a. of this subdivision.
23 c. Insurance covering medical care as defined in sub-paragraph a. of
24 this subdivision.
- 25 (10) 'Program.' – The Universal Childhood Immunization Program in
26 G.S. 130A-159.5.
- 27 (11) 'State-supplied vaccine.' – Vaccine purchased by the State for covered
28 lives for whom the State is purchasing vaccine using State funds raised
29 via assessments on health insurers.
- 30 (12) Total nonfederal program cost.' – The estimated childhood vaccine
31 program cost less the amount of Federal Vaccine for Children ("FVC")
32 funds available to the State for the purchase and distribution of
33 vaccines.
- 34 (13) 'Vaccine.' – A preparation of killed or attenuated living
35 microorganisms, or fraction thereof, that upon administration
36 stimulates immunity that protects against disease and is approved by
37 the Federal Food and Drug Administration as safe and effective and
38 recommended by the Advisory Committee on Immunization Practices
39 of the Centers for Disease Control and Prevention for administration to
40 children under the age of 19 years.

41 **"§ 130A-159.2. North Carolina Childhood Vaccine Association established; board**
42 **of directors appointments; terms; powers and duties.**

43 (a) There is established the North Carolina Childhood Vaccine Association as a
44 nonprofit corporation registered and regulated pursuant to Chapter 55A of the General
45 Statutes. The Association is formed for the purpose of collecting and remitting adequate

1 funds from health insurers for the cost of vaccines provided to insured children in North
2 Carolina under the Universal Childhood Immunization Program established in
3 G.S. 130A-159.5. The Association shall be comprised of all insurers issuing or
4 renewing health benefit plans in this State, and all third-party administrators conducting
5 business on behalf of residents of this State or on behalf of health care providers and
6 facilities providing health care in this State.

7 (b) The initial Board of Directors ("Board") of the Association shall be
8 comprised of 11 members, appointed as follows:

- 9 (1) Eight by the General Assembly, four upon the recommendation of the
10 President Pro Tempore of the Senate, and four upon of the
11 recommendation of the Speaker of the House of Representatives.
12 These members shall be selected from health insurers that have the
13 most fully insured and self-funded covered lives in this State. Two of
14 the initial appointees by the Senate and two by the House shall each
15 serve a term of two years. The remainder of the Senate and House
16 initial appointees shall serve a term of one year.
17 (2) Two by the Governor who are physicians licensed in this State, at least
18 one of whom shall be a board certified pediatrician.
19 (3) The Secretary, or the Secretary's designee with expertise in childhood
20 immunization purchasing and distribution.

21 (c) The Board shall have the following powers and duties:

- 22 (1) Adopt articles of incorporation and bylaws.
23 (2) Prepare and adopt a plan of operation, which shall include a dispute
24 resolution process through which an insurer may challenge an
25 assessment determination by the Board. The dispute resolution process
26 shall include a means to bring unresolved disputes to an impartial
27 decision-maker.
28 (3) Conduct all activities in accordance with the approved plan of
29 operation.
30 (4) Enter into contracts as necessary to implement the plan of operation,
31 including the collection and disbursement of assessments.
32 (5) Sue or be sued, including legal action necessary for the recovery of
33 any assessment for, on behalf of, or against members of the
34 Association or other participating person.
35 (6) Obtain liability and other insurance coverage for the benefit of the
36 Association, its directors, officers, employees, and agents as may in
37 the judgment of the Board be helpful or necessary for the operation of
38 the Association.
39 (7) Borrow and repay working capital, reserve, or other funds as, in the
40 judgment of the Board, may be helpful or necessary for the operation
41 of the Association.
42 (8) Forward to the Office of State Treasurer annual assessments collected
43 by the Board as provided in G.S. 130A-159.3.

- 1 (9) Appoint from among its directors, committees necessary to provide
2 technical assistance in the operation of the Association, including the
3 hiring of independent consultants.
- 4 (10) Provide for audit compliance with reporting obligations established
5 under the Board's plan of operation. Upon failure of any entity that has
6 been audited to reimburse the costs of the audit, as certified by vote of
7 the Board within 45 days of notice of such vote, the Secretary shall
8 assess a civil penalty of one hundred fifty percent (150%) of the
9 amount of such costs.
- 10 (11) Establish an interest charge for late payment of an assessment. The
11 Secretary shall assess a civil penalty in the amount of one hundred
12 fifty percent (150%) of the assessment amount against a health insurer
13 that fails to pay an assessment within 45 days of notification of the
14 delinquency.
- 15 (12) File liens and seek judgment to recover amounts in arrears and civil
16 penalties, and to recovery reasonable collection costs, including
17 reasonable attorneys' fees and costs. The Secretary is also authorized
18 to recover amounts under this subdivision. Civil penalties shall be
19 deposited to the Childhood Immunization Account.
- 20 (13) Perform other functions as may be necessary or proper to implement
21 the plan of operation and to affect the purposes for which the
22 Association is organized.

23 **"§ 130A-159.3. Assessments.**

24 (a) The Secretary shall establish the total nonfederal program cost for the
25 upcoming year and provide it to the Board by October 1 of each year. The Board shall
26 establish the amount of each insurer's assessment needed for the operational period
27 beginning January 1, 2010 through December 31, 2010. By October 15, 2010, the Board
28 shall provide written notification to each health insurer of the assessment due from each
29 for this period. The Board shall determine the method and timing of assessment
30 collection in consultation with the Department. The assessment methodology adopted
31 by the Board shall ensure that the nonfederal costs are based on actual usage of vaccine
32 for a health insurer's covered lives. The Board shall adopt a formula to ensure the total
33 anticipated nonfederal program cost is collected and transmitted to the Childhood
34 Immunization Account established under G.S. 130A-159.4 in order to ensure adequacy
35 of State funds to order State-supplied vaccine from the CDC.

36 (b) The Board shall establish the assessment due from each insurer for the
37 ensuing operational period and shall provide written notification to each insurer by
38 October 15 of each year of the total assessment due from the insurer for the ensuing
39 annual period. The insurer shall have 45 days after receipt of the notification to remit
40 amounts due, or in the case of an approved payment plan, the initial payment under the
41 approved payment plan.

42 (c) The Board shall develop a mechanism through which the number and cost of
43 doses of vaccine purchased under the Program that have been administered to children
44 covered by the health insurer, are attributed to each health insurer. The mechanism shall

1 include at least the date of vaccine administration, patient name, vaccine received, and
2 the patient's coverage under a health benefit plan. This data shall be collected and
3 maintained in a manner consistent with applicable State and federal health information
4 privacy laws. The Board shall factor the results of this mechanism for the previous year
5 into the determination of the appropriate assessment amount for each health insurer for
6 the ensuing year.

7 (d) For (i) new vaccines recommended by the Advisory Committee for
8 Immunization Practices of the CDC for which an initial federal contract price is
9 established, and (ii) other vaccine changes received by the Advisory Committee on
10 Immunization Practices of the CDC between October 1 and July 31 of subsequent fiscal
11 years, an interim assessment will be made. The Department shall determine the dollar
12 amount necessary to purchase, store, and distribute the vaccine and shall inform the
13 Board of the dollar amount by the first day of the quarter of the year following the
14 establishment of a federal contract price for the vaccine. The Board shall determine the
15 appropriate health insurer assessment within 15 days of receiving notice of this amount
16 from the Department. All health insurer assessments for the vaccine shall be paid to the
17 Board within 45 days of receiving the assessment from the Board.

18 (e) For any year in which the total calculated cost to be received from
19 Association members through assessments is less than the total nonfederal program
20 cost, the Association shall pay the difference to the State for deposit into the Childhood
21 Immunization Account established under this Part. The Board may assess health
22 insurers their proportionate share of these costs and appropriate reserves as determined
23 by the Board.

24 (f) The aggregate amount raised by the Association in any year may be reduced
25 by an surpluses remaining from prior years.

26 (g) The Board shall submit periodic reports to the Secretary listing those health
27 insurers that failed to remit the required assessment. The Board shall provide for an
28 audit of a health insurer's books and records to ensure accuracy of assessment payment
29 submission.

30 **"§130A-159.4. Childhood Immunization Account established.**

31 There is created in the General Fund a non-reverting restricted receipts account to be
32 known as the Childhood Immunization Account ("Account"). Funds in the Account
33 shall be those forwarded by the Board to the State Treasurer from annual assessments
34 collected by the Board less administrative costs. Funds in the account may be used only
35 for the purchase, storage, distribution, and quality assurance of vaccines and other
36 authorized administrative expenses under the Universal Childhood Immunization
37 Program. No expenditures from the account may be made unless approved by the
38 Secretary.

39 **"§ 130A-159.5. Universal Childhood Immunization Program; participation.**

40 (a) The Department shall include in the Program those vaccines for childhood
41 immunizations recommended by the Advisory Committee for Immunization Practices
42 of the Centers for Disease Control and Prevention (CDC) and designated for coverage
43 by the federal Vaccine for Children Program. Physicians providing these childhood
44 vaccines shall participate in the Program. The Department shall allow each health care

1 provider participating in the Program to select vaccines from a list of all vaccines that
2 are (i) approved by the United States Food and Drug Administration, (ii) recommended
3 by the Advisory Committee on Immunization Practices, and (iii) made available under
4 contract with the CDC.

5 (b) Not later than October 1, 2010, and annually thereafter, the Department shall
6 determine the dollar amount appropriate to purchase, store, distribute, and provide
7 quality assurance for vaccines for routine immunizations, and to support other
8 authorized administrative expenses under the Universal Childhood Immunization
9 Program. The Department shall provide the estimates to the Board as soon as possible.

10 (c) All health insurers shall remit payment of the assessment required by the
11 Board for the health insurer's share of the total amount needed to fund nonfederal
12 program costs calculated by the Department. The assessment shall include additional
13 funds as determined necessary by the Board to cover the reasonable administrative
14 expenses of the Association..

15 (d) Physicians and clinics ordering State supplied vaccine must have billing
16 mechanisms and practices in place that enable the Association to accurately track
17 vaccine delivered to covered lives and shall submit documentation in such form as may
18 be prescribed by the Board in consultation with the North Carolina Medical Society.
19 Physicians and other persons providing childhood immunization are urged to use State
20 supplied vaccine whenever possible. Health insurers shall deny claims for vaccine
21 serum costs when the serum providing similar protection is provided or available via
22 State supplied vaccine.

23 **"§ 130A-159.6. Universal Childhood Immunization Program requirements.**

24 (a) Every health insurer shall report annually to the Board the number of covered
25 life months insured or administered by the health insurer during a period and on a form
26 prescribed by the Board. The Board shall determine the date on which the annual report
27 is due.

28 (b) Every health care provider that submits a claim to a health insurer for
29 payment for vaccines administered under the Program shall provide a copy of the claim
30 to the Board at the same time the claim is submitted to the health insurer. The Board
31 shall maintain a record of claims for purposes of cross-checking the administration of
32 vaccines with insurer assessments.

33 **"§ 130A-159.7. Reporting requirements; liability.**

34 (a) Not later than one hundred twenty days after the close of the Association's
35 fiscal year, the Board shall submit to the Secretary a financial report in a form approved
36 by the Secretary.

37 (b) No liability on the part of, and no cause of action of any nature, shall arise
38 against any member of the Board, against an employee or agent of the board or
39 Association, or against a health care provider for any lawful action taken in the
40 performance of their duties or required activities under this Part.

41 **SECTION 2.** The Secretary shall convene the initial meeting of the Board of
42 Directors of the North Carolina Childhood Vaccine Association established in this act.
43 Thereafter the Board shall meet at the call of the chair.

44 **SECTION 3.** This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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BILL DRAFT 2009-SQfz-26 [v.5] (04/12)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
4/15/2010 4:54:52 PM

Short Title: Fire Safe Cigarettes.

(Public)

Sponsors: Unknown.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE FIRE-SAFETY STANDARD AND FIREFIGHTER
3 PROTECTION ACT, AS RECOMMENDED BY THE PUBLIC HEALTH STUDY
4 COMMISSION.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 58-92-10 reads as rewritten:

7 "§ 58-92-10. Definitions.

8 For the purposes of this Article:

9 (1) "Agent" means any person authorized by the Department of Revenue
10 to pay the excise tax on packages of cigarettes.

11 (1a) 'Brand style' means a variety of cigarettes distinguished by the tobacco
12 used, tar and nicotine content, flavoring used, size of the cigarette,
13 filtration on the cigarette, or packaging.

14 (2) "Cigarette" means any roll for smoking, whether made wholly or in
15 part of tobacco or any other substance, irrespective of size or shape,
16 and whether or not such tobacco or substance is flavored, adulterated,
17 or mixed with any other ingredient, the wrapper or cover of which is
18 made of paper or any other substance or material, other than leaf
19 tobacco.

20 (3) "Commissioner" means the Commissioner of Insurance.

21 (4) "Consumer testing" means an assessment of cigarettes that is
22 conducted by a manufacturer (or under the control and direction of a
23 manufacturer), for the purpose of evaluating consumer acceptance of
24 such cigarettes.

25 (5) "Distributor" means any person other than a manufacturer who sells
26 cigarettes or tobacco products to retail dealers or other persons for
27 purposes of resale, any person who owns, operates, or maintains one or
28 more cigarette or tobacco product vending machines in, at, or upon

1 premises owned or occupied by any other person, or a distributor as
2 defined in G.S. 105-113.4(3)a.

3 (6) "Manufacturer" means:

- 4 a. Any entity ~~which that~~ manufactures or otherwise produces cigarettes
5 or causes cigarettes to be manufactured or produced anywhere that
6 ~~such the~~ manufacturer intends to be sold in this State, including
7 cigarettes intended to be sold in the United States through an
8 importer;
- 9 b. The first purchaser anywhere that intends to resell in the United
10 States cigarettes manufactured anywhere that the original
11 manufacturer or maker does not intend to be sold in the United
12 States; or
- 13 c. Any entity that becomes a successor of an entity described in
14 sub-subdivision a. or b. of this subdivision.

15 (7) "Quality control and quality assurance program" means the laboratory
16 procedures implemented to ensure that operator bias, systematic and
17 nonsystematic methodological errors, and equipment-related problems
18 do not affect the results of the testing. Such a program ensures that the
19 testing repeatability remains within the required repeatability values
20 stated in G.S. 58-92-15(g) for all test trials used to certify cigarettes in
21 accordance with this Article.

22 (8) "Repeatability" means the range of values within which the repeat
23 results of cigarette test trials from a single laboratory will fall
24 ninety-five percent (95%) of the time.

25 (9) "Retail dealer" means any person, other than a manufacturer or
26 distributor, engaged in selling cigarettes or tobacco products.

27 (10) "Sale" means any transfer of title or possession or both, exchange or
28 barter, conditional or otherwise, in any manner or by any means
29 whatever or any agreement therefor. In addition to cash and credit
30 sales, the giving of cigarettes as samples, prizes, or gifts, and the
31 exchanging of cigarettes for any consideration other than money, are
32 considered sales.

33 (11) "Sell" means to sell, or to offer or agree to do the same."

34 **SECTION 2.** G.S. 58-92-20 reads as rewritten:

35 **"§ 58-92-20. Certification and product change.**

36 (a) Each manufacturer shall submit to the Commissioner a written certification
37 attesting both of the following:

- 38 (1) Each cigarette listed in the certification has been tested in accordance
39 with G.S. 58-92-15.
- 40 (2) Each cigarette listed in the certification meets the performance
41 standard set forth in G.S. 58-92-15.

42 (b) Each cigarette listed in the certification shall be described with the following
43 information:

- 44 (1) Brand or trade name on the package.

- 1 (2) ~~Style, such as light or ultralight.~~ Brand style, as defined in
2 G.S. 58-92-10(1a).
- 3 (3) Length in millimeters.
- 4 (4) Circumference in millimeters.
- 5 (5) Flavor, such as menthol or chocolate, if applicable.
- 6 (6) Filter or nonfilter.
- 7 (7) Package description, such as soft pack or box.
- 8 (8) Marking pursuant to G.S. 58-92-25.
- 9 (9) The name, address, and telephone number of the laboratory, if
10 different than the manufacturer that conducted the test.
- 11 (10) The date that the testing occurred.

12 (c) Certifications shall be made available to the Attorney General for purposes
13 consistent with this Article and the Commissioner for the purposes of ensuring
14 compliance with this section.

15 (d) Each cigarette certified under this section shall be recertified every three
16 years.

17 (e) For each ~~certification form,~~ brand style listed in a certification, a
18 manufacturer shall pay to the Commissioner a fee of two hundred fifty dollars
19 (\$250.00). The Commissioner may annually adjust this fee to ensure it defrays the
20 actual costs of the processing, testing, enforcement, and oversight activities required by
21 this Article.

22 (f) There is established in the State treasury a separate, nonreverting fund to be
23 known as the "Fire Safety Standard and Firefighter Protection Act Enforcement Fund."
24 The fund shall consist of all certification fees submitted by manufacturers and shall, in
25 addition to any other monies made available for such purpose, be available to the
26 Commissioner solely to support processing, testing, enforcement, and oversight
27 activities under this Article.

28 (g) If a manufacturer has certified a cigarette pursuant to this section, and
29 thereafter makes any change to such cigarette that is likely to alter its compliance with
30 the reduced cigarette ignition propensity standards required by this Article, that cigarette
31 shall not be sold or offered for sale in this State until the manufacturer retests the
32 cigarette in accordance with the testing standards set forth in G.S. 58-92-15 and
33 maintains records of that retesting as required by G.S. 58-92-15. Any altered cigarette
34 ~~which~~ that does not meet the performance standard set forth in G.S. 58-92-15 ~~may~~
35 shall not be sold in this State."

36 **SECTION 3.** This act becomes effective July 1, 2010.
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